

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Jonathan L. Simpson,
Petitioner,
v.

Case No. 1:18-cv-02369-TLW

South Carolina Department of Corrections,
Respondent.

Order

Petitioner Jonathan L. Simpson, proceeding *pro se*, filed this petition for habeas relief under 28 U.S.C. § 2254. ECF No. 1. The matter now comes before the Court for review of a Report and Recommendation (R&R) filed on October 25, 2018, by Magistrate Judge Hodges, to whom this case was assigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), DSC. ECF No. 11. In the R&R, the Magistrate Judge recommends summary dismissal of the petition without prejudice and without issuance and service of process because Petitioner failed to respond to two proper form orders. *Id.* Objections to the R&R were due November 8, 2018, and Petitioner has not filed objections. This matter is now ripe for decision.

In reviewing the R&R, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations

omitted).

In light of the standard set forth in *Wallace*, the Court has carefully reviewed the R&R in this case. Noting that Petitioner filed no objections, the R&R, ECF No. 11, is hereby **ACCEPTED**. Therefore, for the reasons articulated by the Magistrate Judge, Petitioner's claim for habeas corpus relief is dismissed without prejudice and without issuance and service of process.

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

March 29, 2019
Columbia, South Carolina